

Chapter 8.
AUTOMOTIVE DEALERS AND AUTO WRECKERS
ARTICLE II. AUTOMOTIVE DEALERS

Sec. 8-52. Application generally.

(a) Every applicant for a license to engage in, conduct or carry on within the city limits any of the businesses described in section 8-16 of this Code shall make application therefor on an application form furnished by the chief of police and prescribed by the automotive board, which application shall be signed and sworn to as herein provided and shall include, among other things, the following information respecting the applicant:

- (1) Trade name of each business that the applicant has engaged in during the five-year period next preceding the filing of such application.
- (2) Address of the applicant's principal office or establishment in the city. If the applicant is a mobile automotive repair business it must provide a mailing address, a physical address if different from the mailing address, and the VIN and license plate number of each mobile repair unit used for the business.
- (3) Number and location of branch establishments, if any, maintained and operated in the city.
- (4) Whether the applicant is the owner or lessee of the real property occupied and, if the lessee, the name of the landlord.
- (5) Type of service to be provided by the business.
- (6) If application is for a dealer(s) license, applicant must provide a state issued general distinguishing number, if required to have one.
- (7) Whether the applicant has ever been convicted of a felony or of a crime involving moral turpitude, and if a partnership, the answer shall be as to all members of the partnership, and if a corporation, shall be as to all officers of the corporation.
- (8) The name and mailing address of each owner or principal of the applicant and copies of the assumed-name registration if the business will be operated under an assumed name.
- (9) If the applicant is a corporation, a certificate of good standing from the Texas Secretary of State for a Texas domestic corporation or a certificate of authority to do business in Texas if a foreign corporation, along with the names and addresses of all officers and the corporation(s) registered agent in Texas.
- (10) If ~~a~~ the applicant is a partnership, the partnership registration, if any, and the names and addresses of all the general partners.
- (11) Except for applicants for retail supply dealer licenses, each applicant shall submit himself to be fingerprinted at the police department or at the police department of any other city or town if such department will forward the fingerprints to the police department. The application shall be signed by and have fingerprints of: a) the owner if

the applicant is a sole proprietorship or b) an authorized person if the applicant is a corporation or a general partnership.

(b) If the application is by a corporation, the same shall be signed and sworn to by a duly authorized officer thereof, if by a partnership, then by one of the general partners therein, and if by an individual, then by such individual personally.

(c) Such application, properly filled out and executed, shall be delivered by the applicant to the chief of police or his duly authorized representative.

(d) Any person submitting an initial application pursuant to this section or an application for an amended license for a different premises as provided for in this division shall also submit a copy of either a certificate of occupancy issued by the building official or a receipt demonstrating that the applicant has applied for a certificate of occupancy for the occupancy of each structure which is to be used for the applicant's business. No such initial license shall be issued unless the applicant has submitted a copy of such a certificate of occupancy or receipt for each structure, and each certificate or receipt shows that the structure to which it appertains may be occupied for the type of business for which the application is being made.

(e) Any licensee submitting an application for the renewal of a license shall submit a copy of a certificate of occupancy issued by the building official for the occupancy of each structure which is used for the licensee's business. No such renewal license shall be issued unless the licensee has submitted a copy of such a certificate of occupancy for each structure, and each certificate shows that the structure to which it appertains may be occupied for the type of business for which the application is being made.

A copy of each certificate of occupancy or receipt submitted by an applicant or licensee pursuant to this subsection shall be deemed to be a part of the application for the license. Its submission shall also be deemed to be a representation of the applicant that the certificate is a true and correct copy of the instrument that was issued by the building official, and that is valid.

(f) The requirements of item (6) of subsection (a) and subsections (d) and (e) of this section shall not apply to an applicant or licensee that is a mobile automotive repair business.

(g) Any fraudulent information provided on the license application, including the omission of any criminal background data, shall be cause for denial of the license.

The above is necessary to ensure that applicants who are untruthful on their license applications are denied a license. As it stands, the police department may only revoke or suspend an existing license for untruthful statements on the application.

Sec. 8-66. Revocation or suspension.

(a) The automotive board may revoke or suspend a license after it has been granted under this division for any of the following reasons:

- (1) Habitual drunkenness or the use of narcotics by the licensee.
- (2) Conviction of an offense pursuant to section 1-10 of this Code.
- (3) Adjudication of insanity of the licensee.

- (4) Fraud or misrepresentation in obtaining the license.
- (5) Violation by the licensee, on more than one occasion, either willfully or maliciously or by reason of incompetence, of any of the provisions of this chapter or of any rule or regulation adopted and promulgated by the automotive board and approved by the city council, under authority vested in it by this chapter.
- (6) Upon satisfactory proof that the licensee has violated any of the laws of Texas affecting either the sale of automobiles or the operation of the business or service for which the license was issued.
- (7) Proof that the licensee has represented and sold as a new and unused motor vehicle any motor vehicle which has been operated for demonstration purposes or which is otherwise a used motor vehicle.
- (8) Proof that the licensee has sold or offered for sale as a new and unused motor vehicle any motor vehicle for which he cannot secure for the purchaser thereof such new car warranty as may be extended by the manufacturer of the car to the purchaser of one of its new cars, unless he shall explain to the purchaser and show on the bill of sale that the car is being sold without any warranty being extended by the manufacturer.
- (9) Proof that the licensee resorts to or uses any false or misleading advertising in connection with his business as such motor vehicle dealer or motor vehicle salesman.
- (10) Proof that the licensee gives false or fictitious names or addresses for the purpose of registering the sale of a motor vehicle, or makes application for the registration of a motor vehicle in the name of any person other than the true owner, or any other fraudulent practices to evade the meaning of this section.

(b) The automotive board, before taking any action under this section, shall give the licensee written notice of the violation or offense complained of and shall conduct a hearing inquiring into such violation or offense, at which time the licensee shall have an opportunity to present evidence on his behalf. If the board revokes or suspends a license because the licensee has been convicted of the commission of a felony or of a misdemeanor involving moral turpitude, the revocation or suspension shall be effective immediately.

(c) A licensee whose license has been revoked or suspended by the automotive board shall have the right to appeal such revocation or suspension to the city council in the manner and under the terms and conditions provided for in section 8-57 of this Code and the council shall follow the procedure set forth in that section.

(d) A licensee whose license has been revoked pursuant to this section shall not be eligible to apply for the same type of license for a period of one year from the date of revocation.

Under the current wording of the ordinance, licensees whose business licenses are revoked by the Automotive Board for numerous violations of the statutes regulating the automotive industry can simply reapply immediately after the revocation or suspension ~~with no chance for denial~~, thereby needlessly consuming resources of HPD and the Automotive Board, and negating the regulatory authority of both the Automotive Board and City Council, who hears appeals from the Automotive Board's decision.

Sec. 8-82. Application; issuance or denial.

It shall be the duty of each salesman required to be licensed under this division to apply for such license in the same manner as prescribed in division 2 of this article. Such application shall be on an application form provided by the chief of police and prescribed by the automotive board. Such application shall state the applicant's name, age, present address, former addresses and places of employment during the preceding two years, whether the applicant has been convicted of a felony or of a crime involving moral turpitude. A bust picture of applicant, not less than 1½ inches by two inches in size, shall be attached to said application. An application for the license required by the provisions of this division shall be acted upon by the automotive board in the same manner and respect as provided for in the issuance of licenses under division 2 of this article, and the board shall either approve or deny the application. Each application shall be referred to the chief of police who shall advise the board as to whether the applicant appears to have been convicted of or served time in jail or prison for any applicable offense specified in section 1-10 of this Code. Any fraudulent information provided on the license application, including the omission of any criminal background data, shall be cause for denial of the license. If the application is approved, it shall be transmitted to the chief of police for the issuance of the license. A person aggrieved by the action of the automotive board in denying an application for the license required by the provisions of this division or revoking or suspending such a license may appeal to the city council in the manner and under the terms and conditions provided for in section 8-57 of this Code and the council shall follow the procedure set forth in such section.

The above is necessary to ensure that applicants who are untruthful on their license applications are denied a license. As it stands, the police department may only revoke or suspend an existing license for untruthful statements on the application.

ARTICLE III. AUTO WRECKERS AND STORAGE YARDS

DIV. 2. AUTO WRECKERS, SUBDIVISION B. WRECKER DRIVER LICENSES

Sec. 8-134. Issuance; denial; hearing.

(a) Any person desiring a wrecker driver license or wrecker driver trainee license shall pay the non-refundable fee stated for this provision in the city fee schedule at the time he submits his application for the license. There shall also be a prorated fee for a wrecker driver license applicant who has, or has had within past 90 days, a valid wrecker driver trainee license. The police chief shall approve an application and issue the wrecker driver license or wrecker driver trainee license after payment of the application fee and completion of the investigation of the criminal and driving record of the applicant, unless:

This language is cleanup and necessary as a transition from the first part of this section to the below listed reasons for which the Chief may deny the issuance of this type of license. The list remains ambiguous without the proposed additional language.

- (1) The police chief determines that the applicant is not qualified under section 8-131;
- (2) The information provided in the application is materially false or incorrect or the applicant has failed in any material way to comply with this article;
- (3) The applicant has had a wrecker driver license revoked during the preceding one year period; or

- (4) The applicant is not in compliance with the criminal history provisions of section 1-10 of this Code.

Sec. 8-137. Revocation, suspension, and refusal to renew.

(a) The police chief may suspend or revoke a wrecker driver license or wrecker driver trainee license if:

- (1) Any information supplied in the license application was materially false or incorrect;
- (2) The license was issued through error;
- (3) The licensee has failed to comply with any applicable provision of the license or this chapter;
- (4) The licensee has been convicted of violating state laws or city ordinances; or
- (5) The licensee is under indictment for or has a charge pending for an offense listed in section 1-10 of this Code pertaining to wrecker drivers.

(b) A wrecker driver's or wrecker driver trainee's license is automatically revoked if his state-issued driver's license, state-issued incident management towing operator's license, or state-issued towing operator training license (state-issued license) is suspended or revoked. A wrecker driver or wrecker driver trainee shall notify the police chief's designee within three days of a suspension or revocation of any of his state-issued licenses and shall immediately surrender his city wrecker driver's license or wrecker driver trainee's license to the police chief's designee.

(c) A revoked wrecker driver license may not be renewed and shall not be subject to reissuance for a one year period as provided in section 8-134 of this Code. A suspended wrecker driver license may not be renewed until the period of suspension has expired.

(d) An individual whose wrecker driver or wrecker driver trainee license is revoked or suspended under subsection (a) of this section is entitled to an appeal in the same manner as provided in sections 8-134 and 8-135 of this Code upon receipt of written notice of the revocation or suspension of his license.